

BUDGET & FINANCE COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Budget & Finance Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on **Tuesday, January 11, 2005**.

MEMBERS PRESENT:

Leg. Michael Caracciolo, Chairman
Leg. Angie Carpenter, Vice•Chairman (excused absence)
Leg. Daniel P. Losquadro
Leg. Cameron Alden
Leg. William J. Lindsay
Leg. Peter O'Leary
Leg. Ricardo Montano

ALSO IN ATTENDANCE:

Mea Knapp, Counsel to the Legislature
Ilona Julius, Deputy Clerk
Jim Spero, Director of Budget Review
Kevin Duffy, BRO
Ben Zwirn, Assistant Deputy County Executive
Ken Knappe, Budget Office, County Executive
Bob Bortzfield, Budget Office, County Executive
Jacqueline Caputi, Assistant County Attorney
Frank Tassone, Aide to Majority Leader
Maria Ammirati, Aide to Leg. O'Leary
Carl Yellon, Aide to Leg. Kennedy
Linda Burkhardt, PO's Office
DeWitt Davies, Planning Department
Doug Sutherland, Aide to Leg. Carpenter

MINUTES TAKEN BY:

Diana Kraus, Court Stenographer

(THE MEETING CONVENED AT 9:43 AM)

CHAIRMAN CARACCILOLO:

Good morning everyone. I'd like to call the Finance and Budget Committee meeting to order. Would everyone please rise for a salute to the flag to be led by Legislator O'Leary.

(SALUTATION)

CHAIRMAN CARACCILOLO:

Thank you. Madam Clerk, I'd like you to note for the record that this Committee •• the composition of this Committee has been slightly modified. Legislator John Kennedy, which was •• who was originally assigned, has been reassigned to other committee assignments and Legislator Cameron Alden will be the replacement member. And I don't consider him a replacement at all because like many of us at the horseshoe, Cameron has followed with a watchful eye county finances for many years. And I welcome him as a member of this Committee.

I know we have at least one public speaker. Lisa, could you make copies of this correspondence for each committee member and then I will call up the Lieutenant.

In the meantime, I know there was a request by the County Attorney's office, Miss Harrington, to address the Committee today. Is she present? You're here. Okay. I understand that this is in reference to IR 1978. Yes. Just need to grab the microphone, please. This is respect to Legislator Montano's legislation.

MS. CAPUTI:

Yes, it is.

CHAIRMAN CARACCILOLO:

So, the floor is yours.

MS. CAPUTI:

Thank you very much.

CHAIRMAN CARACCILOLO:

Identify yourself for the record, please.

MS. CAPUTI:

It's Jacqueline Caputi from the County Attorney's Office. And my office has spoken on this resolution in the past. And I believe even spoken to Mr. Montano directly about it. But we just have some legal concerns that we wanted to advise the Committee of; that a) the New York State General Municipal Law really doesn't provide any statutory mechanism for establishing a fund such as is proposed. That's section of the law specifically designates various types of reserve funds that the County can establish. This would not be one of the types that's enumerated under that statute.

And secondly, establishment of a reserve fund of the nature proposed would be in contravention of the County's statutory budget process. And the Court of Appeals of this state has confirmed that idea, that reserve funds such as this interfere with the normal budgetary process because you really aren't permitted to put funds in reserve for remote or future contingencies. And what that results in is that you then have to raise the tax levy in the current budget year or the next year. And you really are not supposed to do that because you're affecting the taxpayers for something that may never occur.

So, we have legal problems with the bill and we would ask you to consider that when you vote on the, you know, getting it out of Committee.

CHAIRMAN CARACCILOLO:

Has that opinion been provided to members of the Legislature in writing?

MS. CAPUTI:

Not in writing at this point.

CHAIRMAN CARACCIOLO:

Okay. I would like to request that.

MS. CAPUTI:

Okay.

CHAIRMAN CARACCIOLO:

And I'd like to give first the sponsor an opportunity to perhaps raise any questions with respect to that opinion.

MS. CAPUTI:

Sure.

LEG. MONTANO:

Well, I agree with the Chairman. I would like to see the opinion in writing.

CHAIRMAN CARACCIOLO:

You got to ••

LEG. MONTANO:

Can you hear me now? Actually before we go further, I would like to see your •• your opinion in writing so I can take a look at the statute. This is •• I don't think we've had a chance to speak with •• I haven't had a chance to speak with your office with respect to the issues you raise now. So, I won't comment on those. But from what I gather, you're saying that the General Municipal Law doesn't allow this type of reserve fund or doesn't enumerate the type of fund in the law? What's the difference?

MS. CAPUTI:

Well, the case law doesn't allow it. But the General Municipal Law sets out specific types of reserve funds that may be established, which are tax stabilization funds, repair funds for highways, capital reserve funds but not a reserve fund of the type proposed here. And then if you look at the case law and things that have followed after the statute was enacted, it's clear that you can't make other kinds of reserve funds, Attorney General opinions and things like that.

LEG. MONTANO:

Well, I'll wait for the legal decision. But this is not tax money. This is money that was accumulated by an auction by separate process. So, I don't really see, you know, on first blush, I don't see why it would be •• I wouldn't use the word unlawful •• but why you would speak against taking money that we collect from a different source of revenue, not taxes, and putting that money in a special fund on the side to be distributed at some later point. My purpose in enacting this legislation is that we don't commingle the funds that we acquired in the auction with tax proceeds. And there's a difference there.

MS. CAPUTI:

Well, it may be a practical difference, but it's not a legal difference because even though the monies weren't raised from taxes, they still belong to the General Fund. So, you can't get •• you're not commingling because those action proceeds are general county funds; have to be put into the General Fund.

LEG. MONTANO:

That's the purpose. I would rather see them not put in the General Fund until after we decide how we're going to spend it. That's why we put it on reserve as we collect it. But you know what, let's end the debate now. I would like to see the opinion that you referred to so that we can take a look at that and then see whether or not it has substance.

MS. CAPUTI:

Okay. I will relay your request to the County Attorney.

LEG. MONTANO:

Excuse me?

MS. CAPUTI:

I will relay the request for the written opinion to Ms. Malafi.

LEG. MONTANO:

Thank you.

CHAIRMAN CARACCILOLO:

Thank you. Legislator Alden.

LEG. ALDEN:

That request should indicate also the very basic tenets of the way we operate. Any revenues that come into Suffolk County are required by law. And I'd appreciate it if you just did the search and would state what has to happen with revenues that come into the County. So, that would include fees that we charge in golf courses, revenues that would come in from auctions, whether it be surplus equipment, surplus cars; or whether it be revenues that come in from auctions of property. So, maybe just expand a little more bit more ••

MS. CAPUTI:

Sure.

LEG. ALDEN:

•• on the general law, too, and the general situation.

MS. CAPUTI:

Okay. Thank you.

CHAIRMAN CARACCILOLO:

Before you go, I would like to request an opinion from the County Attorney with respect to •• and I don't have the resolution before me because it's in another committee, in Ways and Means. And that relates to the county auction and the issues surrounding that regarding an individual and his legal representative that were not permitted to participate in the county auction.

MS. CAPUTI:

You're speaking of IR 2296, I believe?

CHAIRMAN CARACCILOLO:

Yes, yes. I did receive some correspondence from Ms. Malafi. However, the concern I have is whether or not it would be appropriate to cast a decision on the matter given what may be potential litigation against county officials. So, I'd like some direction in that regard.

MS. CAPUTI:

Okay.

CHAIRMAN CARACCIOLO:

Legislator O'Leary.

LEG. O'LEARY:

Yes, Mr. Chair. As the Chair of Ways and Means, I am somewhat familiar with this particular matter that you raise. And I'm under the impression that the County Attorney's Office has requested an executive session to discuss this matter at the Ways and Means Committee meeting this Thursday.

MS. CAPUTI:

I'll be at the meeting. And I believe Ms. Harrington is also going to attend because she's a little bit more familiar with this than I am.

LEG. O'LEARY:

Okay. Thank you.

CHAIRMAN CARACCIOLO:

Thank you.

MS. CAPUTI:

Thank you.

CHAIRMAN CARACCIOLO:

Is there anyone •• and I know we have a representative from the Town of Southold who would look to address the Committee on IR 2219? So, I'd like the Lieutenant to come forward. And if there's anyone else in the audience that would like to address the Committee, please identify yourself so that you'll be recognized. Lieutenant? Wherever you're comfortable. Identify yourself and your position for the record.

LT. KRUSZESKI:

Good morning. My name is Frank Kruszeski. I'm a Lieutenant with the Southold Town Police Department. I'm here today to speak on behalf of Supervisor Josh Horton.

CHAIRMAN CARACCILOLO:

Excuse me, Lieutenant. Let me just note for the record that the Lieutenant is speaking with respect to this resolution and the Public Hearing surrounding same. So, that Public Hearing is now open. **(Public Hearing regarding Intro Number 2219•04, a Charter Law to provide fair and equitable distribution of public safety sales and compensating use tax revenues.)**

LT. KRUSZESKI:

The Supervisor requests that his comments be made part of the public record for this meeting.

CHAIRMAN CARACCILOLO:

Just one more brief interruption. I want to verify with the Clerk that Public Notices for this hearing today are in order?

MS. JULIUS:

Yes, they are, Mr. Chairman.

CHAIRMAN CARACCILOLO:

Thank you.

LT. KRUSZESKI:

"Dear Honorable Members of the Suffolk County Legislature: Thank you for taking this matter up before you today. This letter is a request for assistance. As you are aware, the County allocates a share of revenues generated by the Suffolk County Sales Tax to the five East End Towns and Villages that provide their own police and public safety services.

In 2001, Southold Town received a share of \$508,130. In 2002 that number was reduced to \$401,035 and has remained flat since then.

The Town of Southold requires little by way of services from Suffolk County. We are self•policing, self•regulating and our programs are largely self•sufficient. It is no secret that sales tax revenues are substantially up. These funds help ease your budget constraints, enabling you

to place less reliance on property tax. We on the East End, however, have not realized that benefit. And, in fact, in Southold have recently endured a county imposed 27% property tax rate increase. I am simply requesting a fair share for Southold and the East End.

I am pleased to say that the Town enjoys a strong working relationship with the County. I look forward to strengthening that bond even more so. Nonetheless, I feel strongly that the Town of Southold and each of the other East End towns and villages that provide their own public safety services should receive a larger share of the Suffolk County sales tax revenue.

Thank you again for listening. I thank you in advance for the fair action I trust you will take and a special thanks to Legislator Caracciolo for leading this effort.

Sincerely, Joshua Young Horton, Supervisor of the Town of Southold."

CHAIRMAN CARACCILOLO:

Thank you, sir, for that statement. And I express my appreciation to the Supervisor. I don't know if there are any questions for the speaker. Lieutenant, I think we have a question for you.

LT. KRUSZESKI:

Sure.

CHAIRMAN CARACCILOLO:

Before we entertain a question, I'd just like to add to today's record on this matter the reference to the 27% property tax •• county property tax increase so that anyone who reviews this record has all the information surrounding that increase. And at this time, Jim, if you could comment as what •• that increase resulted as a result of what factors that were beyond the County's control?

MR. SPERO:

The County General Fund tax levy actually went down. However, because of the changes in assessed value within the Town of Southold and the fact that the equalization rates dropped, which raised the fair full equalized value of property within the Town of Southold, the Town ended up receiving a larger share of the county General Fund tax burden.

CHAIRMAN CARACCILOLO:

And those factors are driven by state law, not county action.

MR. SPERO:

But the equalization rates are set by the state and reflect market values within the town.

CHAIRMAN CARACCILOLO:

So, it was good news, somewhat; not so good news scenario for the local taxpayer. On one hand they've seen their property values increase substantially. The state recognizing that adjusting their equalization rates which then increase their local property tax much to our chagrin and theirs, but beyond our control.

MR. SPERO:

That's right. It's how the •• the towns full equalized value rolls in relation to all the other towns in the County. So, this year •• every year there's usually one town that •• that takes a hit so to speak on •• with the equalization rates, where there's a big sudden shift in the rate in one given year. This area it was the Town of Southold.

CHAIRMAN CARACCILOLO:

Right. Okay. Thank you. Legislator Alden.

LEG. ALDEN:

Actually, just •• that was good you covered that because I wanted to find out about the county imposed 27% property tax increase myself. But, Jim, what's the total amount of sales tax that you use for police purposes? A percentage or ••

MR. SPERO:

This year a full quarter cent of the sales tax was transferred to the police district fund. And that's •• we reduced it slightly because it was it •• it was overfunded, but it's around \$64 million.

LEG. ALDEN:

Okay. And that's all of the sales tax that goes to police districts or police ••

MR. SPERO:

Right. To stabilize taxes within that fund.

LEG. ALDEN:

Okay. So ••

CHAIRMAN CARACCILOLO:

Legislator Alden, if I could just add to that comment; the \$64 million represents the transfer within the inter•funds •• the county inter•funds to the County Police District, not all police districts included towns. The total for the towns, villages. And there are about 22 in total. There are a lot of small village police departments in western Suffolk. I think the total, Jim, this year was a little over \$2 million combined?

MR. SPERO:

For '05 it's 3.1 million in total.

CHAIRMAN CARACCILOLO:

3.1. I'm sorry. Okay. Okay. That's the total for those 22 entities. And the police district share was how much?

MR. SPERO:

It's about 64 million in sales tax.

CHAIRMAN CARACCILOLO:

Okay. Thank you. So, that's 64 million in county, 3.1 to 22 towns and village police departments.

LEG. ALDEN:

So, it was a total of 67 point something million?

MR. SPERO:

No. About 64 million in sales tax revenues going to the police fund to stabilize property taxes in that fund.

LEG. ALDEN:

Okay.

MR. SPERO:

And then the towns and villages that are not within the district will receive a total of \$3.1 million.

LEG. ALDEN:

Okay. So all that adds up to a quarter percent or it's more than a quarter ••

MR. SPERO:

The 64 million represents approximately a quarter percent of the sales tax revenue, which is the maximum allowed for public safety purposes. So, that money •• none of that money necessarily has to go to the police fund. It could all stay in the General Fund.

LEG. ALDEN:

So, out of the quarter cent, that's where the money's funded for the towns and villages?

MR. SPERO:

That's right.

LEG. ALDEN:

Okay. So, all the numbers that we were talking about before just •• they can't add up to more than a quarter of a cent; right?

MR. SPERO:

Well, you're looking at revenue versus an appropriation. The 3.1 million to the towns and villages is an expense. The 64 million is a revenue to the fund.

LEG. ALDEN:

Where do we get the 3 point something million?

MR. SPERO:

It's an amount that's been, you can say, somewhat arbitrarily established to fund the various East End and ••

LEG. ALDEN:

But that doesn't come from ••

MR. SPERO:

•• village police districts.

LEG. ALDEN:

But that doesn't come from •• it doesn't come from western end property tax. It comes from the sales tax or does it come from General Fund? Because the General Fund is a combination of sales ••

MR. SPERO:

The sales tax comes from the General Fund.

LEG. ALDEN:

Right.

MR. SPERO:

It's a general county revenue. And we send it to the police fund to stabilize taxes within that fund. Okay.

LEG. ALDEN:

Okay. So, part of that money is property tax that west end towns pay; and then that goes as subsidies towards villages and the towns.

MR. SPERO:

Right. Well, the issue •• the issue •• how this whole thing came about was that as everyone knows the sales tax is county wide tax.

LEG. ALDEN:

Right.

MR. SPERO:

And we can't identify from where the tax is actually collected. We really don't know. We can guesstimate how much might be collected on the East End, but we really don't know. The state never really gives us the detailed information necessary to try to figure that out. So, what happens is that the East End, towns and villages and other village police departments not in the police district pay •• you know, contribute to the sales tax revenue. That sales tax is being used to stabilize the property tax in the police district, which is really in the five western towns. So, as a matter of equity, this public safety revenue sharing formula, we'll call it, was devised to give back to the East End and village police departments some portion of the sales tax they were contributing to the police district fund. In theory, if no sales tax went to the police district fund, there would be no reason to have public safety revenue sharing because it's all general •• it would all stay in the General Fund.

LEG. ALDEN:

A question to the sponsor; because I'll wait when we're debating the bill, I have a bunch of other questions, but, you know, for the Public Hearing purposes, are you planning on recessing?

CHAIRMAN CARACCILOLO:

I'm going to recess the Public Hearing.

LEG. ALDEN:

Recessing? Okay, then, I'll wait, then. I have other questions on it.

CHAIRMAN CARACCILOLO:

Thank you, Lieutenant.

LT. KRUSZESKI:

Thank you.

CHAIRMAN CARACCILOLO:

Are there any other speakers on this Public Hearing? Hearing none, the Chair will make a

motion •• would you like to speak, Mr. Zwirn, on this Public Hearing?

MR. ZWIRN:

It's going to be recessed?

CHAIRMAN CARACCILOLO:

Yes.

MR. ZWIRN:

Then I'll speak at a later time.

CHAIRMAN CARACCILOLO:

That will be fine. Okay. The Chair will make a motion to recess the Public Hearing, second by Legislator Alden. All in favor? Opposed? Abstentions? Motion carries unanimously.

(Recessed. Vote: 6•0•0•1. Leg. Carpenter not present)

I will make one more announcement. Is there anyone in the audience that would like to address the Committee in the business before it today? Hearing none, I would like to invite Mr. Knappe from the Budget Office up. And as I understand it, this is going to be your last presentation as a member of the Budget Office.

MR. KNAPPE:

I'd really just like to take this time to thank this Committee and past Budget and Finance Committee meetings. I've been offered a promotion in the Department of Social Service Office off the Civil Service list. And I have accepted that. And I really thank all of you for the professionalism and courtesy that you afforded me in the Budget Office. I think I've been in front of the Committee for the last eight •• eight plus years either speaking or assisting the Budget Director. And all of you and your staff, Budget Review and the Clerk's Office and the PO's Office has been very beneficial and helpful to me and my career here in the County. And I just want to thank you all for that.

LEG. ALDEN:

We want to thank you.

CHAIRMAN CARACCILO:

As Legislator Alden said, yes, each of us would like to extend our congratulations on your reassignment and promotion. And as you are aware, this •• my office requested that a presentation •• a brief presentation be made today by Mr. Borzfield, who I understand was not available, with regard to a forecast of county finances, current state of affairs and a projection on where •• how things are setting up for 2005 because we know a year ago, there was some rather dire forecast that fortunately did not materialize to the extent that some had predicted; but in either event we want to be prepared to deal with what may lie ahead so this is an opportunity to give us that projection. And next month, Mr. Spero, you will be requested to do the same at the February 8th meeting. So, Mr. Knappe.

MR. KNAPPE:

Unfortunately at this time the Budget Director had no forecast planned to present to the Committee. We are in the process of doing some internal look at the numbers currently. And when the Budget Director has that information and feels comfortable sharing it with the Committee, he certainly will do so. We're just not at the point yet to share that information or have that information to give to the Committee.

CHAIRMAN CARACCILO:

Well, I hope that does not portend that we are going to revert back to days when the executive branch did not want to cooperate with this Committee and the Legislature as a whole with respect to financial matters because that will not be accepted nor tolerated. We have fortunately the ability to call press conferences and bring to the public's attention shortcomings like that remark. And we're not just going to stand idle and let that take place.

MR. KNAPPE:

I think it was more of a timing factor.

CHAIRMAN CARACCILO:

So, please convey to Mr. Borzfield, one, I graciously understood given the short notice of the invitation that he may not be available. However, I don't want this to become a tactic that's used in the future to withhold valuable information that the Legislature as a whole or this Committee in particular needs to have in terms of information to be proactive in dealing with

financial issues facing the County in 2005.

MR. KNAPPE:

I certainly don't think that's the case. I think it was more just a timing factor. I know the Budget Director in the past has spoken •• had dialogue with the Budget Review Office on their models and stuff. And I just don't think they were even at that point. And I don't want to speak for Jim, but I don't even think they were even at that point yet to speak between themselves to share information.

CHAIRMAN CARACCILOLO:

Well, going forward I'm going to request at the first meeting of each month this that Committee convenes, the Budget Director and the Budget Review Office Director make a brief presentation as to a status of funds, projections as it relate to sales tax revenues and potential surpluses or shortfalls for the year on a month to month basis. So, please make sure both you and Mr. Zwirn convey that back to the Budget Office; that that information is going to be essential and required at each meeting •• the first meeting of each month.

MR. KNAPPE:

I certainly will.

CHAIRMAN CARACCILOLO:

Thank you. Yes, Legislator Losquadro.

LEG. LOSQUADRO:

Thank you. I couldn't let you go without a good question for you. In regard to the 477 funds, we have estimated at the end of 2004 about 24 million. BRO, are these numbers correct at the end of 2005, 46 million? So, those are the numbers ••

MR. SPERO:

That number's overstated because •• it's about 39 million. The wrong number was carried over from 2004 into 2005.

LEG. LOSQUADRO:

Okay. Still a substantial account balance in the 477 fund. Is the intention of the Budget Office at this point based on a number of resolutions we have seen as of late, to be using water quality protection funds for land acquisitions and infrastructure improvements that do not pertain to water quality improvements? Because this is the direction we've seen many of these proposals going in. And I'm wondering what the rationale for using the 477 account for these projects is. And if it is the intention of the Budget Office to continue to put these resolutions forward when we as a body have made it very clear that this is not the right mechanism to use and we do not see this as something that we will adopt. So, if you do not have that information with you now, I will be bringing this up again in my committee in Environment, Planning and Agriculture. So, if you could have a representative present to answers these questions, I would greatly appreciate it.

MR. KNAPPE:

I certainly will. And if I could just elaborate a little bit on that. The fund 477 money and the numbers that Budget Review have quoted is for three programs within fund 477. It deals with the farmland development rights, open space acquisition and water quality related programs. And within the Charter and the local law that created that, there is specific purposes and needs what the water quality monies can be used specifically for. One of those is water quality remediation types of programs. The way that the water quality portion of the resolutions that have come before the Legislature introduce, it does go through a water quality type of review committee where the environmental people and the departments take a look at it. And I'll let them speak at that at the Environmental Committee meeting. The specifics on how this relates to water quality. That is certainly an area that they are much more well informed and can speak on than I can as far as the dollars and cents goes. These environmentalists, the water quality people in the County have viewed that these projects do fit that criteria. And the Budget Office and the County Executive's Office has introduced those resolutions because of that. But I'll let that debate go before the Environmental Committee.

LEG. LOSQUADRO:

Please do because I don't necessarily see the repaving of a parking lot as falling under the guidelines of water protection. Perhaps adding storm drains or filters in those drains, but certainly not using it for the capital improvement of installing a parking lot. So, I look forward to that debate. Thanks.

MR. KNAPPE:

I certainly will.

CHAIRMAN CARACCILOLO:

Legislator Alden.

LEG. ALDEN:

Just to pick up a little bit on what Legislator Losquadro's talking about, I see a very, very troubling pattern developing here also. Last year a resolution was presented to us to actually fund improvements in the sewer district; instead of using the available funds that we have in the 477 account, we went outside and borrowed money. So, the most costly inefficient way to go and fund our improvements was utilized. Now, I also see a pattern. And then I have to think, you know, not being a conspiracy theorist or anything like that, but was that money put aside so it can be used for salaries for the operating budget? Because actually I found some stuff, and I'm going to ask for, you know, your Budget Office to come forward and identify. And I hope you identify the same things that I found. We have 477 money that is being used for operating expenses in salaries. And that's not the intent of 477 money. That's not the intent to bring down the County's budget on the operating side of the ledger. So, I find a very, very disturbing pattern developing between the end of last year and right now when I look at all the resolutions that have come in regarding 477 money. And it actually appears that salaries are included in the whole current host of resolutions that have been put forward by this administration. So, I really would like to hear in this Committee and I'm sure that the Chairman of Ways and Means and also the Chairman of •• what do we call it, ELAP?

CHAIRMAN CARACCILOLO:

EPA.

LEG. ALDEN:

That's the easiest way to do it? Okay. I'm sure they're going to be interested in seeing this also because it's a bad pattern. And a deceptive type of pattern is being established right now in my eyes. So, I would like to have a full disclosure of how much salary is being paid currently out of the 477 account and with the addition of these •• and there's got to be at least six resolutions, how much more salary and operating expenses are trying to be used out of the 477

account. Thanks. And sorry to put this little bit of a take to one of your last presentations here, but I do appreciate, you know, like your ability to be forthright with us and open with your discussions. And you're very, very technical. And I think you did a great job and we're going to miss, you know, you coming before us.

MR. KNAPPE:

Thank you.

CHAIRMAN CARACCILOLO:

You won't miss coming here but ••

LEG. ALDEN:

We'll miss having you here.

MR. KNAPPE:

I will miss it. As far as the staffing goes, the staffing established in the water quality fund has been •• has evolved since the inception of the program. And it was always done either by resolution or in the budget process. I think the parks piece or the organics maintenance program was the first piece that added staffing to fund 477 several years ago. That has evolved into a couple of resolutions passed in the 2002 time frame •• I might be off; 2002 or 2003 •• that adding staffing in the Health Department as well as Public Works to administer the programs and to look forward and seeing what type of programs they'll be doing in the future during the inception of the water quality piece. And I believe in the 2005 recommended budget, the Parks Department received a couple additional staff positions, which the Legislature had agreed upon and didn't change in the omnibus process, which added some parks stewardship type of positions. So, that's how it evolved. I don't think any of the six resolutions that are in front of the Legislature, and I might be wrong with this, but I don't believe any of those six resolutions add staffing.

LEG. ALDEN:

Not add staffing, but it pays for existing staffing. And just to •• maybe I'll leave that for another day but ••

CHAIRMAN CARACCILOLO:

Mr. Spero? Jim, could you review this matter? As the members have pointed out very, I think,

clearly there's concern in the Legislature that there might be an attempt to abuse and exceed the intent of the water quality program and the funding therein. Could you prepare a memo after reviewing these six resolutions? And my office will give you the resolution numbers, so that we have some guidance as to whether or not the intention to use these funds in the fashions described in the resolutions exceed the parameters under which the fund was established?

MR. SPERO:

Yeah. We can give you our opinion. Ultimately it's the Legislature that makes the decision as to what's appropriate and what is not appropriate.

CHAIRMAN CARACCILOLO:

Counsel, in effect, then, if you could do that from a legal perspective looking at the original legislation which was a vote, a referendum, which I and Legislator Alden and a number of other Legislators cosponsored, to make sure that we're not exceeding what was the original intent.

LEG. ALDEN:

Mr. Chairman?

CHAIRMAN CARACCILOLO:

Let Counsel answer first.

LEG. ALDEN:

Oh, she's going to answer today?

CHAIRMAN CARACCILOLO:

No, no, no.

MS. KNAPP:

I'll •• what I'll do is I'll work with the Budget Review Office and I'll provide them with the legal opinions that they'll need and they can provide the technical and substantive information that the Committee will need. And between the two of us, we should be able to cover ground.

CHAIRMAN CARACCILOLO:

Okay. Yes, Legislator Alden.

LEG. ALDEN:

Also just to point out, that legislation which I drafted with a lot of input from Legislator Caracciolo and others, did have a component that threw off upwards of \$35 million each year that goes into the General Fund for stabilization purposes. And that was my intent to basically •• any programs that required anymore as far as labor and operating costs, that 35 to \$70 million that each year goes into the General Fund would be used to actually fund those programs or any additional type of labor. Not to have the entire 477 account shifted so that it's taking the burden off of the operating budget. Because I think that's deceptive and actually it's even more disturbing some of the things that I'm seeing and actually hearing as far as, you know, the way that money's being used and the total disregard for the programs and the savings that could be affected to the people of Suffolk County. As I pointed out before, the way that bond issue, instead of financing with the 477 funds, we went out to the public. The most expensive way that we could go and finance those improvements.

CHAIRMAN CARACCILOLO:

Mr. Zwirn, I see that you have stepped up to the microphone. Would you like to comment on this matter?

MR. ZWIRN:

Let me first wish everybody a Happy New Year. And once that's done, that's probably the last time we'll be talking that nicely. I just have with all due respect to Legislator Alden, he keeps using the word deceptive, you know, that the County Exec has deceptive practices. Are there any ••

LEG. ALDEN:

No, no, I have to interrupt you right there, Ben. I never said the County Executive is deceptive. You just said it. So, don't •• don't go down that path, don't start this year going down that path because there's going to be trouble between the County Executive's Office and this body if you're going to go and twist everything around and spin things. And it's not going to be accepted. It's deceptive to the people when the money's not used for something that a vote of a referendum was put out there. Then it's deceptive to the people. And I didn't say whether it was the Legislature being deceptive, whether it was a different department or whether it was the County Executive. You came in here with that spin. And that's not going to

be tolerated by me. At least. Not this year. You're not coming in here with the County Executive spin. So, I would appreciate it if you start over again, Ben.

MR. ZWIRN:

Well, when you use the word deceptive, let me •• let me not put words in anybody's mouth. Who's deceptive?

LEG. ALDEN:

Why didn't you say that?

MR. ZWIRN:

What legislation are you talking about that you are claiming is deceptive on the part of anybody? And on whose part are you claiming it's deceptive?

LEG. ALDEN:

You want an answer?

CHAIRMAN CARACCILOLO:

Is that a question for Legislator Alden? Because the Chair will allow this discussion, but this will be it.

MR. ZWIRN:

I understand.

LEG. ALDEN:

Good. I want to find out who's being deceptive here. Because if we're using 477 money improperly and if it's a Levy resolution that's going to propose to use it, then, I think that maybe the County Executive would be deceptive. If it's one of the heads of the department that's actually using this money for labor when it wasn't intended to go there, then, maybe it's a department head. Or maybe it's the Legislature that actually passed a resolution to use the money improperly. So I think an investigation, at least, is called for. But I can tell you one thing that's deceptive. And that's a resolution that came over from the County Executive's office proposing not to use money that we had, but to go out and bond money and cost the

taxpayers dollars because it cost the taxpayers money just •• even for the people to go and put that bond out there. So, there's extra expense. Instead of financing it internally. And I asked you for months to give me information on it. And you know what? Nobody ever bothered getting back to me. I had a discussion with you out in Riverhead, you told me I'm going to go talk to the County Executive. I'll get back to you on it. But no, the County Executive stayed with his request, let's do it the most expensive way. Now, I want to get to the bottom of that.

CHAIRMAN CARACCILOLO:

Okay. Mr. Zwirn, any other comments?

MR. ZWIRN:

I'm going to digest what I just heard and I'll reserve my comments.

CHAIRMAN CARACCILOLO:

Okay. Legislator Montano, did I see that you wanted to be recognized?

LEG. MONTANO:

I'll pass.

CHAIRMAN CARACCILOLO:

Legislator Lindsay.

LEG. LINDSAY:

Yeah. I just wanted to say goodbye to Ken. You know, this was a nice last meeting for you. I'm sure you'll be happy to get over to Social Services and deal with easier problems like homeless and abused kids and stuff like that, you know. So, good luck to you.

MR. KNAPPE:

Thank you.

CHAIRMAN CARACCILOLO:

And on that note of levity, we'll go to today's agenda. Okay. I would just note one housekeeping matter, IR 2226, if you look at today's revised agenda, has been deleted because

it has been assigned to the primary committee of Environment, Planning and Agriculture. So, it's has been stricken from the original agenda that was issued for today.

Okay, that brings us to some tabled resolutions. And do I hear any motion on **table resolution 1929 (Amending the 2004 Operating Budget transferring funds for the Northport American Legion Post 694 Corporation.)**

LEG. LINDSAY:

I have a question on that, if you don't mind, Mr. Chairman.

CHAIRMAN CARACCILOLO:

I think it's expired, Bill, because it would amend the 2004 budget. So, Counsel should this resolution be stricken because it has exceeded its time limitation?

MS. KNAPP:

Yes, it should be.

CHAIRMAN CARACCILOLO:

Okay. So, so strike 1929 from the agenda and notify the sponsor accordingly, Madam Clerk.

We go to **1978 (directing the County Treasurer and County Comptroller to provide for the equitable distribution of auction proceeds)**

LEG. MONTANO:

Motion to table.

CHAIRMAN CARACCILOLO:

Motion to table by the sponsor, Legislator Montano, second by Legislator Losquadro. All in favor? Opposed? Abstentions? Unanimous. **(Vote: 6•0•0•1. Leg. Carpenter not present)**

2219 (adopting local law, a Charter law to provide for fair and equitable distribution of public safety sales and compensating use tax revenues) same motion to table pending the Public Hearing. Second by Legislator Alden. All in favor? Opposed? Abstentions? Tabled.

(Vote: 6•0•0•1. Leg. Carpenter not present)

We have one resolution that was tabled subject to call. Is there any motion to consider this resolution? If not, Counsel, in the future, resolutions that are on or from a previous meeting that were tabled subject to call, there's no requirement that they appear on subsequent agendas?

MS. KNAPP:

It's at the discretion of the Committee Chair.

CHAIRMAN CARACCILOLO:

Okay. Thank you. Is there any motion on this resolution? Hearing none, we'll continue to **IR 2238 (amending the 2004 Capital Budget and appropriating funds in connection with the purchase and installation of playground equipment in Suffolk County Parks, customized for disabled young children)**

MR. KNAPPE:

If I could, Mr. Chairman?

CHAIRMAN CARACCILOLO:

Yes.

MR. KNAPPE:

IR 2238 was the Certificate of Necessity that the County Executive introduced at the last meeting of the year. The Budget Office is in the process of filing a corrected copy to be submitted before the corrected copy deadline, which I believe, is Monday. If I could just speak. I guess just asking this Committee to discharge without recommendation until you see the corrected copy. We are amending the capital budget and funding an offset within the capital budget to pay for the playgrounds.

CHAIRMAN CARACCILOLO:

Okay. So, obviously, the reference to operating budget in '04 is no longer valid.

MR. KNAPPE:

Correct.

CHAIRMAN CARACCILO:

And you're going to submit a new resolution essentially.

MR. KNAPPE:

There'll be a corrected copy that will be filed amending the capital budget.

CHAIRMAN CARACCILO:

So, you're requesting that we table this? We table this?

MR. KNAPPE:

That will be fine.

LEG. LINDSAY:

No, discharged without recommendation.

CHAIRMAN CARACCILO:

Oh, discharged without recommendation. Okay. Legislator Losquadro.

LEG. LOSQUADRO:

Ken, first of all, don't worry. You're lucky, you can just pass this information along and just say
••

MR. KNAPPE:

I'm leaving before the next General Meeting.

LEG. LOSQUADRO:

Yeah. But this question is more directed at Mr. Zwirn. As I recall, with this Certificate of Necessity it was agreed at the time that it could hold over for a cycle. And that's why we sent it to committee. Is that your recollection from the meeting?

MR. ZWIRN:

No. My recollection was that to book this money, the money could not be spent before next

year; but this was pass through money from the state. And that my request at that time was to at least book this money and put it into a special account because this was money that was earmarked for a handicapped program of building these recreation facilities. That's why we •• we can still •• at that time we could still build the project. It was a question of with what money were we going to do it. And the question was could we use the state money, which was going to expire at the end of the year.

LEG. LOSQUADRO:

So, there was a question as to the mechanism of funding. And when we decided to hold it over •• to my recollection •• I'm sure we could pull the minutes up •• it was agreed upon between the Legislature and the County Executive's office. My question then is, what reasoning, then, was used by the County Executive's office when this body was referred to or compared to the Grinch and Ebenezer Scrooge in withholding his money? And in true pontificating fashion, it was sort of the •• for the children model that was used. And when comparing us •• like I said, I wrote this down specifically because I remember the editorial that was used, we were literally compared in a press release to the Grinch and Ebenezer Scrooge. And we had a question of the funding mechanism. And, quite frankly, I really found that offensive. I've been waiting to ask what the reasoning was being that now we're still asking for a discharge without recommendation because we still don't have something finalized. Now, if we don't have something finalized in front of us that we can absolutely say with 100% certainty that we can agree upon at a General Meeting, how were we remiss in holding this over and how could we fairly be compared to characters such as the Grinch and Ebenezer Scrooge when we were doing our fiduciary responsibility?

MR. ZWIRN:

When this had gone to Committee, there were questions raised. And I remember that the •• I believe Legislator Carpenter at that time said bring it with a CN to the General Meeting and then it could be done at that time. We didn't think this was anything political. We just had state money available to us at that time that we thought we could use to help offset some of the, you know, the county taxpayers. I mean now •• the project could always be built. And we said that, I believe, at the meeting. The question was with the funding. One, we could have appropriated •• we could have got started, you know, before the end of the last year. And as a result we lose the state •• the state funding, the state portion. So that we could still go ahead and do the project. We never said you couldn't ••

LEG. LOSQUADRO:

Legislator Carpenter •• Mr. Zwirn ••

MR. ZWIRN:

We came with a CN.

LEG. LOSQUADRO:

Mr. Zwirn, Legislator Carpenter was not on this committee last year. So, if this was to go through Budget and Finance and Legislator Carpenter was not on this committee ••

MR. ZWIRN:

We were asked to bring a CN ••

LEG. ALDEN:

A word of correction? I believe this might have been in either Ways and Means or •• no, it wasn't Health •• it was Parks. It was either Parks or Ways and Means.

MR. ZWIRN:

Wasn't Legislator Carpenter •• that's my recollection.

LEG. ALDEN:

She was in Parks. This resolution originally was in Parks.

MR. ZWIRN:

That would explain that.

LEG. LOSQUADRO:

But I knew she was not on this committee so ••

MR. ZWIRN:

Well, my memory serves me well, at least in that regard. Thank you, Legislator Alden. I appreciate that.

LEG. LOSQUADRO:

My Zwirn, before I pass it off, I would just say, you said that you did not think that this matter would be political. And quite frankly it was not political. I really think that the Legislature was trying to do its due diligence in seeking the proper funding source. And I don't think this became a political football until that press release was made. So, I'll turn it over to other Legislators for questions.

CHAIRMAN CARACCILOLO:

Okay. Before I recognize the next Legislator, Budget Review, can you tell me if in your opinion this resolution is in its proper form or does it contain any defects?

MR. SPERO:

Well, as we speak today, the resolution can't be adopted because it's amending the 2004 budget. And we are now in fiscal 2005. However, we believe the resolution was defective because it attempted to appropriate excess state revenues contrary to the County Charter. The Charter says you can't appropriate excess revenues prior to the receipt of all revenues being collected. And you never know when all the revenues are collected until the books are closed on the fiscal years. So, essentially, you can't take excess sales tax revenue, excess state aid that might come in and spend that money. It has to go to fund balance.

CHAIRMAN CARACCILOLO:

Okay.

MR. SPERO:

And that is the problem we had with the resolution.

CHAIRMAN CARACCILOLO:

I think that's a good point. So, this motion •• a motion to discharge without recommendation would not be in order given the defect in the resolution. Legislator O'Leary.

LEG. O'LEARY:

Thank you, Mr. Chair. Just to follow•up Mr. Zwirn on Legislator Losquadro's comments, there was a sense of this body when presented with this particular resolution that there was a sense of urgency. And we were willing to move forward with it with that understanding. But clearly what was clarified in the our minds through conversation with you, as a matter of fact, is that there is no sense of urgency; that this particular project could very well have been completed in

the '05 calendar year. And I think June of '05 was a date that was mentioned. So, with that understanding that there was •• that the sense of urgency that was initially presented to us no longer existed, I think, is the reason why we took the action that we did.

Now, if that was relayed to the Executive's Office with respect to our position on the sense of urgency question, then, clearly there was a misunderstanding of what occurred that particular day.

MR. ZWIRN:

Well, there may have been a misunderstanding, but it was never a question that the project could be built. Let me make that clear. And I don't think that's ever been said. It was a question of getting it done by CN in '04 or starting it in '05 and losing the state pass through money. And I think that Budget Review •• I think Jim Spero recommended at that time you could use Pay•As•Go•Money. You can use offsets of various kinds to build this project. But the question at that time was were we going to lose the state funding. And I think we are.

LEG. O'LEARY:

Well, that still remains the question whether or not that that's going to happen. But clearly the reason why we were entertaining for discussion purposes the CN was that there was clearly a sense of urgency on the part of this. And that was determined not to be the case in our minds.

MR. ZWIRN:

Yes.

CHAIRMAN CARACCILO:

Legislator Alden.

LEG. ALDEN:

Let's just go back in time a little bit here. And I think it was established at that Parks Committee meeting this money came from school districts. Is that not correct?

MR. ZWIRN:

It came from the state to school districts to the County.

LEG. ALDEN:

Right. So the school districts decided that they wanted •• this was the testimony that came before us from the County Executive's Office •• that school districts had decided they wanted to throw in some money that they had from the state to build playgrounds. We hadn't decided where to build the playgrounds. And then it came up as far as •• in testimony Jim Spero pointed out that you can't allocate money in that fashion. And there was some clear•cut suggestions, and I'm going to ask him to give them again, there was some very, very clear suggestions from Budget Review as to how to make •• how to make this happen in a legal fashion.

Also, the Committee •• and it was with Legislator Carpenter's questioning or lead, so to speak, had said that break this into •• and basically if you're going to say yes, we're going to do the project, and whichever way would be legal to actually say we're going to fund it, do that and then come back to us when you had the locations picked out. Because it was given to us where you didn't know what kind of equipment, you didn't know where these playgrounds were going, you didn't know what kind of time frame. So, I thought it was a reasonable request from the Parks Committee that •• look, bring a CN over but break it into two things where, you know, we'll say yes to the project first, in a legal manner, though, using Jim Spero's suggestions; and then the second part would be come back to us in '05 and say where are you going to situate these things, how many of the playgrounds can you build. Because there was a question as far as, you know, if we got a bid and each playground was going to be \$300,000, then we could build two or it was like two•and•a•half. If they were going to be a hundred thousand, then we could build five or six. So, there was all kinds of open questions to it, which seem to be open today.

Now I'm just going to ask Jim, what was the mechanism that you had suggested that that resolution be changed to and be brought over as a CN so that we could do exactly that and accomplish it?

MR. SPERO:

Instead of appropriating the excess state aid revenues, I suggested just transferring excess funds from elsewhere in the budget and transferring it to the capital fund. Because it was at the end of the fiscal year. The appropriations wouldn't have been spent on other purposes in

any case. So, we thought that was a rather benign way to handle it.

LEG. ALDEN:

And that point we could retain the money that came from the school districts. It would go into the general fund; correct? Or not correct?

MR. SPERO:

That's right. It's our understanding this money is going to come in. It's good until the end of the school fiscal year which is June.

LEG. ALDEN:

June. So, there was no problem with losing the funds in that manner, there was no problems with as far as getting the project done. So, I just find it amazing that the CN that came over just didn't include any of those suggestions. And now the legislation doesn't include any of those suggestions either because some of those are still pertinent. Wouldn't you say that's the case, Jim, as far as the way it has to be corrected?

MR. SPERO:

Well, yeah. Even today you can't •• we shouldn't accept additional state aid revenues unless it's some sort of a grant, but which this apparently is not.

CHAIRMAN CARACCILOLO:

Okay.

MR. SPERO:

The mechanism the County Executive is now proposing is to amend the capital budget with an offset from another project.

CHAIRMAN CARACCILOLO:

Okay. Counsel, this resolution in its current form, is it proper? Can it be acted on in any fashion today?

MS. KNAPP:

Well, I mean, as a threshold manner, the answer is obviously no because of the 2004 aspect.

The other legal question that I believe Legislator Kennedy brought up and that is relevant from today's point of view is the question of creating a fund after the County Attorney's Office has just advised us that these funds can't be created. And this one creates a new fund 345.

CHAIRMAN CARACCILO:

So, this resolution's defective in its current form. Our suggestion would be to immediately file a new resolution. You have eight days. You have a filing dead line that is not, you know, imposing. So, clean it up and I think there's clearly an intent in the Legislature to move forward.

MR. KNAPPE:

That was my original request. We are in the process of filing a corrected copy.

CHAIRMAN CARACCILO:

Okay. So, we can't entertain a motion to discharge without recommendation. There's a motion to •• well, you can't even table it. I mean it's a defective resolution. Just leave it. I would say withdraw it, re•submit it and let's move on. Let's get the job done.

That concludes today's agenda. Is there anything else? Oh, we have one more. Oh, technical, okay. **2315 (to readjust, compromise and grant refunds and charge•backs on real property correction of errors by County Legislature)** Motion by the Chair, second by Legislator O'Leary. All in favor? Opposed? Abstentions? Unanimous. **(Approved. Vote: 6 •0•0•1. Leg. Carpenter not present)**

That concludes today's agenda. Everyone have a great day. Thank You.

(THE MEETING CONCLUDED AT 10:37 AM)